

Sellers of books, sheet music, and phonograph records incur Retailers' Occupation Tax liability when they sell those items to purchasers for use or consumption and not for resale. See 86 Ill. Adm. Code 130.2105. (This is a GIL).

January 25, 2000

Dear Xxxxx:

This letter is in response to your letter dated December 15, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I recently set up a sole proprietorship called, 'COMPANY', for the purpose of publishing and distributing college textbooks. I plan to produce the books locally and sell them across the country.

My questions to you are

- a). how much is the Illinois sales tax?
- b). when I sell a textbook to a university within state of Illinois (for resale to students) is the sale subject to the sales tax??
- c). Suppose I sell a textbook to, say the University of Iowa, (meaning out of state), is the sale subject to the Illinois sales tax???

If you would care to email an answer, send it to #####

SALES TAX

Illinois taxes the retail sale and use of tangible personal property under two separate but related statutes. The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2 (1998 State Bar Edition). The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased anywhere at retail from a retailer. 35 ILCS 105/3 (1998 State Bar Edition). These taxes comprise what is commonly known as "sales" tax in Illinois. The general tax rate under both tax Acts is 6.25%. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for their Retailers' Occupation Tax liability incurred on those sales.

A retailer in Illinois incurs Retailers' Occupation Tax based upon gross receipts from retail sales and is required to collect the corresponding Use Tax from the retailer's customers. Local Retailers' Occupation Tax is incurred when a seller makes retail sales in a municipality, county, or

other jurisdiction that imposes a local tax. Retailers in those locations are allowed to reimburse themselves for those locally imposed taxes. (See for example, 65 ILCS 5/8-11-1, that allows a retailer to reimburse himself for Home Rule Municipal Retailer's Occupation Tax incurred under that Act.) That authority creates a corresponding legal duty of the purchaser to pay such reimbursing amounts to the retailer if the retailer uses his statutory authority under HRMROT to collect such reimbursing amounts as a separately stated item (or in combination with the State Use Tax) from the selling price of the tangible personal property. For a list of the current tax rates including local sales taxes that are collected by the Illinois Department of Revenue, please see the Department's Sales Tax Rate Reference Manual that is located on the Department's Web site at www.revenue.state.il.us under the heading, "Tax Information - Sales and Related Taxes and Credits."

Please note that a retail sale is considered to occur in the location where purchase orders are accepted by the retailer. In the absence of acceptance of a purchase order in Illinois, the location of the sale is considered to be where the inventory is maintained in the State. See the enclosed copy of 86 Ill. Adm. Code 270.115.

SALES OF BOOKS

With regard to the sale of publications, we have enclosed a copy of 86 Ill. Adm. Code 130.2105 describing the taxation of newspapers, magazines, books, sheet music, and phonograph records. Sellers of books, sheet music, and phonograph records incur Retailers' Occupation Tax liability when they sell those items to purchasers for use or consumption and not for resale. Sales of newspapers and magazines are not subject to tax.

To assist you in registering with the Department, we have enclosed a new business packet. All persons engaged in the business of selling tangible personal property at retail must register on Form NUC-1 and file a Form ST-1 on a monthly basis on or before the twentieth day of each month. See the enclosed copy 86 Ill. Adm. Code 130.501.

Taxpayers can be authorized by the Department to file quarterly or annual returns if provisions for filing quarterly (average monthly liability does not exceed \$200) and annually (average monthly liability does not exceed \$50) are fulfilled. These provisions are described in the enclosed copies of 86 Ill. Adm. Code 130.502 and 130.510, respectively. The decision to permit quarterly or annual filing will be based on the taxpayers' average monthly liability during the first year of registration and, unless authorized or required to file on a quarterly or annual basis, all taxpayers are required to file monthly returns. Please also note that all taxpayers must file a return for every reporting period even if they have not received any gross receipts rendering them liable for payment of the tax. See the enclosed copy of 86 Ill. Adm. Code 130.545.

SALES FOR RESALE

If you make a sale to a person or business who purchases tangible personal property in Illinois for resale, and not for use or consumption, that purchase is not subject to Retailers' Occupation Tax liability. See the enclosed copy of 86 Ill. Adm. Code 130.1401.

A purchaser for resale should provide you with a Certificate of Resale. Certificates of Resale are valid if they contain the information set out in the enclosed copy of 86 Ill. Adm. Code 130.1405. Likewise, blanket Certificates of Resale are valid if they conform to the requirements of Section 130.1405. If a purchaser fails to provide a Certificate of Resale, that sale is presumed to not be for resale and the seller will incur Retailers' Occupation Tax and be required to charge the corresponding Use Tax to the purchaser. See part (d) of Section 130.1405.

SALES IN INTERSTATE COMMERCE

When tangible personal property is located in this State at the time of its sale (or is subsequently produced in this State) and then is delivered in this State to the purchaser, the gross receipts from the sale are subject to tax if the sale is at retail. However, Retailers' Occupation Tax liability does not apply to the gross receipts from a sale in which the seller is obligated, under the terms of an agreement with the purchaser, to make delivery of the property from a point in this State to a point outside this State, not to be returned to this State, provided that such delivery is actually made. See 86 Ill. Adm. Code 130.605(b), enclosed. If a sales agreement requires the tangible personal property being sold to be returned to this State after delivery outside of this State, this exemption would not apply.

Please note that a sale is taxable even though a purchaser that receives physical possession of the property in this State, transports or sends the property out of this State for use outside the State or for use in the conduct of interstate commerce. See part (2) of subsection (a) of Section 130.605.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.